REMARKS/ARGUMENTS

In the Office Action mailed October 27, 2008 (hereinafter, "Office Action"), claims 1-18 stand rejected under 35 U.S.C. § 103. Claims 1, 10 and 15 have been amended.

Applicants respectfully respond to the Office Action.

I.   Claims 1-18 Rejected Under 35 U.S.C. § 103(a)

Claims 1-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2003/0018759 to Baumann (hereinafter, "Baumann") in view of U.S. Patent No. 6,920,555 to Peters et al. (hereinafter, "Peters"). This rejection is respectfully traversed.

The factual inquiries that are relevant in the determination of obviousness are determining the scope and contents of the prior art, ascertaining the differences between the prior art and the claims in issue, resolving the level of ordinary skill in the art, and evaluating evidence of secondary consideration. KSR Int'l Co. v. Teleflex Inc., 550 U.S. ___, 2007 U.S. LEXIS 4745, at **4-5 (2007) (citing Graham v. John Deere Co. of Kansas City, 383 U.S. 1, 17-18 (1966)). As the Board of Patent Appeals and Interferences has recently confirmed, "obviousness requires a suggestion of all limitations in a claim." In re Wada and Murphy, Appeal 2007-3733 (citing CFMT, Inc. v. Yieldup Intern. Corp., 349 F.3d 1333, 1342 (Fed. Cir. 2003)). Moreover, the analysis in support of an obviousness rejection "should be made explicit." KSR, 2007 U.S. LEXIS 4745, at **37. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." Id. (citing In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Applicants respectfully submit that the claims at issue are patentably distinct from the cited references. The cited references do not teach or suggest all of the limitations in these claims. Independent claim 1 recites that the "imaging tool uses a temporary file system to access the image, the temporary file system redirecting the image tool to the image." Support for this language is found in the specification, for example, at paragraph [48], which states that "the temporary file system 414 may act as a redirector and redirect access to a new drive (e.g., direct access to a G: drive) and to the image data 408, which is also stored on the hard drive 412."

Such claim language is not taught or suggested by the cited references. For example, with respect to the concept of the "imaging tool us[ing] a temporary file system to access the image," the Office Action cites to paragraph [0015] of Baumann. In this paragraph, Baumann states:

> At step 206 in FIG. 2, an application on the client system will delete all current partitions on the target drive for the system image and system customization. Then, a temporary storage space (e.g. a partition, a writeable CD, a RAM drive) will be created on the client system 102. Next, at step 208, the image files corresponding to the requested system image are transferred, from the storage device 108 connected to the server system 104, to the temporary storage space on the client system 102 that was created at step 206. At step 210, the image files are cloned from the temporary storage space on the client system 102 to the free space on the client system 102. This step is performed using a cloning tool on the client system 102 to restore the system image from the image files. At step 212, the image files are deleted from the temporary storage space and the customization files corresponding to the requested system customization are transferred from the storage device 108 on the server system 104, to the temporary storage space on the client system 102. The client system 102 is then rebooted, at step 214, and then the customizations stored in the temporary storage space are applied to the system image on the client system 102. After the customizations have been applied, step 216 is performed to remove the temporary storage space from the client system and then to format or partition the target drive on client system 102.

Baumann, paragraph [0015].

The above cited portion of Baumann describes the creation of a "temporary storage space" on the client system. *Id.* Baumann then describes how the "image files corresponding to the requested system image are transferred, from the storage device... to the temporary storage space." *Id.* Later, the "the image files are cloned from the temporary storage space on the client system 102 to the free space on the client system 102." Thus, the files are transferred to the "temporary storage space" from the storage device 15 at the server, and then "cloned from the temporary storage space on the client system 102 to the free space on the client system 102."

To the extent that the Office Action interprets the "temporary storage space" as being the

"temporary file system,"[1] there is no indication in Baumann that this "temporary storage space" *redirects* the image tool to the image, as required by claim 1.

The addition of Peters does not overcome the deficiencies of Baumann. The Office Action relies on Peters as teaching a "file system" and more specifically the "temporary file system":

> Baumann does not explicitly teach a hard drive **having a file system**; a temporary system is **a file system**. However, Peters teaches **a file system** (see Peters, FIG. 1, col. 4, lines 53-65, The computer system 100 includes a partitionable nonvolatile storage medium 102 such as one or more magnetic or optical disks…. The partitionable storage 102 is divided, or divisible, into partitions by use of commercially available software…and program provided by operation system vendors such as Microsoft Corporation. Partition creation, partition and cluster resizing, file system optimization, another partition manipulations operation system, partition software…; col. 7, lines 40-44, creating a new formatted partition or extending an existing partition to place the consolidated free space thus obtained within the scope of a file system so the space can be used to hole captured migration content in one or more files; and col. 8, lines 35-39, the migration content is read back from its temporary storage location and applied to the newly image partition(s)).

Office Action, p. 4. To the extent that such teachings regarding a partition are applicable, there is no teaching or suggestion in Peters that a "temporary file system" *redirects* the image tool to the image, as required by claim 1.

In view of the foregoing, Applicants respectfully submit that claim 1 is patentably distinct from the cited references. Accordingly, Applicant respectfully requests that the rejection of claim 1 be withdrawn.

Claims 2-9 depend either directly or indirectly from claim 1. Accordingly, Applicants respectfully request that the rejection of claims 2-9 be withdrawn.

Claims 10 and 15 have been amended to include subject matter similar to the subject matter of claim 1. Accordingly, Applicant respectfully requests that the rejection of claims 10 and 15 be withdrawn for at least the same reasons as those presented above in connection with claim 1.
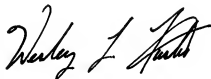
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[1] In the prior Office Action response, Applicants argued that the "temporary storage space" of Baumann does not teach or suggest using "a temporary file system to access the image," as required by the present claims. Applicants incorporate those prior arguments by reference, but has omitted them herein for the purposes of brevity.

Claims 11-14 depend either directly or indirectly from claim 10. Claims 16-18 depend either directly or indirectly from claim 15. Accordingly, Applicants respectfully request that the rejection of claims 11-14 and 16-18 be withdrawn.

II.   Conclusion

Applicants respectfully assert that all pending claims are patentably distinct from the cited references, and request that a timely Notice of Allowance be issued in this case. If there are any remaining issues preventing allowance of the pending claims that may be clarified by telephone, the Examiner is requested to call the undersigned.

Respectfully submitted,

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